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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,615	12/14/2005	Simon G Thompson	36-1951	5593
23117	7590	08/28/2009	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			SKINNER, SHEWANA D	
ART UNIT	PAPER NUMBER			
	3689			
MAIL DATE	DELIVERY MODE			
08/28/2009	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,615	<b>Applicant(s)</b> THOMPSON ET AL.
	<b>Examiner</b> SHEWANA SKINNER	<b>Art Unit</b> 3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08) \_\_\_\_\_  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

This communication is a Final Action in response to correspondence received in 4/24/2009. Claims 1-4, 6 and 7 have been amended. **Claims 1-7** have been considered below.

### *Response to Amendment*

1. The 35 U.S.C. §112 2nd rejections of Claims 1-4 and 7 have been withdrawn in light of applicant's amendment clarifying the claimed invention.
2. The 35 U.S.C. §101 rejections of Claims 1-7 have been withdrawn in light of applicant's amendment adding structural elements to define the apparatus in the apparatus claims and a CPU performing function of the method to the method claim.

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1 and 4 have been considered but are moot in view of the new ground(s) of rejection. Examiner is rejecting as a 102(b) as anticipated by Aggarwal et al (US 6,151,589). Rejection is detailed below.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 2** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner is unclear as to how the apparatus, as a structure, is arranged such that

the range of options for decision is constrained and there is a lack of clear explanation of this element located within the specification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1-7** are rejected under 35 U.S.C. 102(b) as being anticipated by *Aggarwal et al., (US 6,151,589)*, hereinafter "*Aggarwal*".

*Aggarwal discloses the following as claimed:*

**Referring to Claims 1 and 4**

*Aggarwal* discloses an apparatus and method comprising a plurality of computer-based agents (Fig 1) where the agent has a CPU connected to a memory (fig 1 and col 4 lines 29-30) and at least one input/output port for connection with a communications network (Fig 1 and ?) where the agents are provided the means to interact to submit and receive bids (fig 2 and col 2 lines 42-51), define the negotiation process (col 2 lines 42-452) and dynamically negotiate col 2 ;lines 64-67 through col 3 lines 1-7).

**Referring to Claims 2 and 5**

*Aggarwal* discloses an apparatus and method that dynamically adjusts the selection method to only allows buyer/agents whose bids are higher than a predetermined amount set by the seller to continue in the negotiation process (col 2 lines 64-67 through col 3 lines 1-2)

**Referring to Claims 3 and 6**

*Aggarwal* discloses the means for and the generation of a description and purpose of the interactions (Fig 1 and Fig 3 # 310 and col 2 lines 47-53, col 4 lines 35-67 and col 5 lines 15-24)), the means for retrieval (Fig 1 and col 2 lines 44-46 and col 4 lines 26-34) and acting on the descriptions (Fig 3 #320).

**Referring to Claim 7**

*Aggarwal* discloses a computer readable memory medium containing executable computer program, which affects the method of performing computer, based negotiations (Fig 1#5 and col 4 lines 29-34)

***Conclusion***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Conklin et al (US 6,141,653)*, *Godin et al (US 6,266,652)*, *Martin et al (US 6,606,607)* and *Dinwoodie (US 6,415,269)*.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWANA SKINNER whose telephone number is (571)270-7141. The examiner can normally be reached on Monday-Friday 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mooneyham Janice can be reached on (571)272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SHEWANA SKINNER/  
Examiner, Art Unit 3689

/Janice A. Mooneyham/  
Supervisory Patent Examiner, Art Unit 3689